

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Alan Petrosky

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Richard Stutman, Esquire
150 Monument Road, Bala Cynwyd, PA 19004
(610) 668-0255

DEFENDANTS

Allstate Fire & Casualty Insurance Company

County of Residence of First Listed Defendant Cook
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
John R. Brown, Esquire - Ryan, Brown, Berger & Gibbons, P.C.
1600 Market Street, Suite 1416, Philadelphia, PA 19103
(215) 564-3800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332

Brief description of cause:

Claim for underinsured motorist benefits provided by automobile insurance policy sold by defendant to plaintiff

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

150,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/26/2014

SIGNATURE OF ATTORNEY OF RECORD

John R. Brown, Esquire

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

ALAN PETROSKY	:	
	:	CIVIL ACTION
v.	:	
	:	
ALLSTATE FIRE & CASUALTY	:	NO.:
INSURANCE COMPANY	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>June 26, 2014</u>	<u>John R Brown, Esquire</u>	<u>Defendant</u>
Date	Attorney-at-Law	Attorney for Defendant
<u>(215) 564-3800</u>	<u>(215) 564-1301</u>	<u>brown@ryanbrown.com</u>
Telephone	Fax Number	E-Mail Address

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ALAN PETROSKY

V.

Civil Action

No:

ALLSTATE FIRE & CASUALTY

INSURANCE COMPANY

DISCLOSURE STATEMENT FORM

Please check one box:

☒ The nongovernmental corporate party, Allstate Fire & Casualty Insurance Company, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, _____, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

June 26, 2014

Date



Signature
Counsel for: Defendant**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

- (a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
 - (2) states that there is no such corporation.
- (b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:
- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
 - (2) promptly file a supplemental statement if any required information changes.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiffs: 174 DiMarco Drive, Philadelphia, PA 19154

Address of Defendant: 2775 Sanders Road, Northbrook, IL60062

Place of Accident, Incident or Transaction: 1400 Cottman Avenue, Philadelphia, PA (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? Yes ☐ No ☒

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____

Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases

B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability – Asbestos

9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION
(Check appropriate Category)

I, John R. Brown, Esquire, counsel of record do hereby certify:
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought.

DATE: _____
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/26/14 John R. Brown, Esquire John R Brown 41024
Attorney-at-Law Attorney I.D.#

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiffs: 174 DiMarco Drive, Philadelphia, PA 19154

Address of Defendant: 2775 Sanders Road, Northbrook, IL 60062

Place of Accident, Incident or Transaction: 1400 Cottman Avenue, Philadelphia, PA (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? Yes ☐ No ☒

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____

Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases

B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability – Asbestos

9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION
(Check appropriate Category)

I, John R. Brown, Esquire, counsel of record do hereby certify:
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 7/26/14 John R. Brown, Esquire John R. Brown 41024
Attorney-at-Law Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALAN PETROSKY	:	
	:	CIVIL ACTION
v.	:	
	:	
ALLSTATE FIRE & CASUALTY	:	NO.:
INSURANCE COMPANY	:	

NOTICE OF REMOVAL

Defendant Allstate Fire and Casualty Insurance Company ("Defendant" or "Allstate"), by its attorneys, Ryan, Brown, Berger & Gibbons, P.C., hereby submits this Notice of Removal pursuant to 28 U.S.C. sec. 1441, et seq. to remove this civil action from the Court of Common Pleas, Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania, and in support thereof avers as follows:

1. This action originally filed in the Court of Common Pleas, Philadelphia County, May Term, 2014, No. 3003 against Allstate seeks a declaratory judgment that due to injuries Plaintiff Alan Petrosky ("Plaintiff") allegedly sustained in an alleged March 9, 2012 motor vehicle accident, Plaintiff is entitled to underinsured motorist ("UIM") benefits under the terms of a Business Auto Policy issued by Allstate to Plaintiff. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit "A."

2. The state court in which this action is pending, The Philadelphia County Court of Common Pleas, is within this judicial district.

3. Plaintiff avers that he is a citizen of the Commonwealth of Pennsylvania residing at 174 DiMarco Drive, Philadelphia, PA 19154.

4. Defendant Allstate is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Northbrook, Illinois.

5. Allstate was served by Plaintiff via certified mail at its principal place of business by certified mail on June 6, 2014.

6. Accordingly, there is complete diversity between the parties pursuant to 28 U. S. C. sec. 1332.

7. This Notice of Removal has been timely filed within 30 days of service upon Defendant Allstate pursuant to 28 U. S. C. sec. 1446 (b) which provides in pertinent part that "notice or removal shall be filed within thirty days after the receipt by the defendant . . . of a copy of the initial pleading setting forth the claim of relief upon which such action or proceeding is based . . ." and this Notice is being filed within 30 days of receipt of the Complaint, Exhibit "A," which was filed on May 23, 2014 in Philadelphia County Court of Common Pleas but not served upon Allstate by certified mail until June 6, 2014.

8. The United States District Court for the Eastern District of Pennsylvania has original diversity jurisdiction of this action pursuant to 28 U.S.C. sec. 1332, because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the parties to this action are citizens of different states; and, accordingly, this civil action may be removed pursuant to 28 U.S.C. sec. 1441 which provides a right to removal of any such action to the federal district court for the district "embracing the place where

such action is pending" which has original jurisdiction over the matter. The Eastern District of Pennsylvania is the federal district that embraces Philadelphia County, PA.

9. The amount in controversy is in excess of \$75,000, exclusive of interest or costs, based upon the averments contained in Plaintiff's Complaint as well as Plaintiff's voluminous medical records, outstanding medical bills and Worker's Compensation lien and Plaintiff's settlement demand to Allstate for the resolution of his UIM claim.

10. According to the Complaint which was filed in the Philadelphia County Court of Common Pleas Major Jury Program, Plaintiff claims that he sustained multiple serious injuries and traumas, including but not limited L4-S disc herniation, L2-3, L3-4, LS-S 1 disc bulges, thoracic strain and sprain, lumbar strain and sprain, chronic pain syndrome, thoracic nerve damage, cognitive and visual impairments, hearing loss, depression, anxiety, post-traumatic stress disorder, insomnia as well as various other injuries and exacerbation of pre-existing conditions, which are permanent. As a result, Plaintiff is seeking damages in excess of \$50,000, the amount required under the Pennsylvania Rules of Civil Procedure and the Philadelphia County Local Rules to avoid compulsory arbitration in the state court and be able to obtain a jury trial. Further, according to Plaintiff's medical summary, Plaintiff has outstanding medical bills in the amount of \$53,855.61. A true and correct copy of Plaintiff's medical summary is attached hereto as Exhibit "B."

12. By letter dated March 10, 2014, Plaintiff's counsel presented a demand to Allstate of \$150,000.00 in settlement of Plaintiff's underinsured motorist claim. A true and correct copy of Plaintiff's counsel's March 10, 2014 letter is attached hereto as

Exhibit "C."

13. Further, on June 25, 2014, undersigned counsel requested Plaintiff's counsel to execute a stipulation to cap his damages claim in this matter at \$75,000.00. Plaintiff's counsel declined to execute the stipulation and informed defense counsel of Plaintiff's Worker's Compensation lien in the amount of \$70,000.00. A true and correct copy of the June 24-25, 2014 e-mail exchange between Plaintiff's counsel's and undersigned counsel is attached hereto as Exhibit "D."

14. All of the requirements for removal are met in this matter because there is complete diversity between Allstate and Plaintiff, and, the amount in controversy clearly exceeds \$75,000.00. Accordingly, jurisdiction in this matter is proper under 28 U.S.C. §1332.

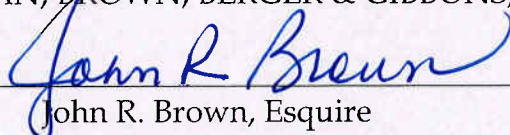
15. True and correct copies of this Notice of Removal will be filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania and served upon Plaintiff's counsel of record as required by 28 U. S.C. Sec 1446 (d).

WHEREFORE, Defendant Allstate Fire and Casualty Insurance Company respectfully requests that Plaintiff's action be removed to this Court.

Respectfully submitted,

RYAN, BROWN, BERGER & GIBBONS, P.C.

By



John R. Brown, Esquire

Lynda M. Powell

Attorneys for Defendant

1600 Market Street, 14th Floor

Philadelphia, PA 19103-7240

(215) 564-3800

(215) 564-1307 - fax

EXHIBIT "A"

VERLIN LAW OFFICES
 BY: RICHARD L. STUTMAN, ESQUIRE
 I.D. NO. 53758
 150 MONUMENT RD., SUITE 404
 BALA CYNWYD, PA 19004
 (610).668-0255
 Email: richard@verlinlaw.com

THIS IS A MAJOR JURY MATTER
 ASSESSMENT OF DAMAGES
 REQUIRED AT HEARING



ATTORNEY FOR PLAINTIFF

ALAN PETROSKY
 174 DIMARCO DRIVE
 PHILADELPHIA, PA 19154

COURT OF COMMON PLEAS
 PHILADELPHIA COUNTY

TERM, 2014

VS.

NO:

ALLSTATE FIRE & CASUALTY
 INSURANCE COMPANY
 2775 SANDERS ROAD
 NORTHBROOK, IL 60062

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
 Lawyer Referral & Information Service
 One Reading Center
 Philadelphia, Pennsylvania 19107
 Telephone: (215) 238-6333

AVISO

La han demandado a usted en la corte. Si usted quiere defensarse de estas demandas expuestas en la paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificación. Haga falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas or sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y regular que usted cumpla con todas las provisiones de esta demanda. Usted puede poder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion De Licenciados De Filadelfia
 Servicio De Referencia E Información
 Legal
 One Reading Center
 Filadelfia, Pennsylvania 19107
 Telefono: (215) 238-1701

VERLIN LAW OFFICES
BY: RICHARD L. STUTMAN, ESQUIRE
I.D. NO. 53758
150 MONUMENT RD., SUITE 404
BALA CYNWYD, PA 19004
(610) 668-0255
Email: richard@verlinlaw.com

THIS IS A MAJOR JURY MATTER
ASSESSMENT OF DAMAGES IS
REQUIRED AT HEARING

ATTORNEY FOR PLAINTIFF

ALAN PETROSKY
174 DiMARCO DRIVE
PHILADELPHIA, PA 19154

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

TERM, 2014

VS.

ALLSTATE FIRE & CASUALTY
INSURANCE COMPANY
2775 SANDERS ROAD
NORTHBROOK, IL 60062

NO:

COMPLAINT

MOTOR VEHICLE

1. Plaintiff, Alan Petrosky, is an adult individual residing at 174 DiMarco Drive, Philadelphia, Pennsylvania 19154.
2. Defendant, Allstate Fire & Casualty Insurance Company, (hereafter known as "Defendant Allstate") is a Corporation or similar entity with a place of business located at 2775 Sanders Road, Northbrook, Illinois 60062.
3. On April 19, 2012, the date of the motor vehicle accident that has led to this action, Defendant Allstate was duly qualified and licensed to conduct and transact business within Philadelphia County; in the Commonwealth of Pennsylvania, and was empowered to execute insurance policies with the general characteristics hereinafter described.

4. At all times relevant and material hereto, Defendant Allstate was doing business on a regular, continuous and systematic basis in Philadelphia County, by advertising in newspapers, billboards, circulars, direct mailings, television advertisements, internet advertisements, as well as in White and Yellow residential and commercial/business telephone directories and thus was deriving substantial compensation from their Philadelphia County customers and agents.

5. At all times relevant and material hereto, Defendant Allstate regularly, consistently, continuously, habitually and systematically wrote and sold qualifying insurance contracts/agreements/policies to Philadelphia County residents and business/commercial establishments, insuring people, property and businesses, which activities were essential to and/or in direct furtherance of the corporate objectives and financial goals of Defendant Allstate.

6. By the terms of the insurance policy issued to Plaintiff, Defendant Allstate provided coverage for Plaintiff in accordance with the Motor Vehicle Financial Responsibility Laws of Pennsylvania (75 Pa. C.S. Section 1701, et. seq.) which was in full force and effect on March 19, 2012.

7. The motor vehicle accident that has led to the filing of this Complaint occurred in Philadelphia County in the Commonwealth of Pennsylvania and the Plaintiff resides in and has suffered harm because of Defendant Allstate in Philadelphia County in the Commonwealth of Pennsylvania.

8. On March 19, 2012, at approximately 6:45 p.m., Plaintiff, acting in his capacity as a Philadelphia Police Officer was investigating a motor vehicle collision between vehicles

operated by Evelyn Rosa and Anthony Rosenberg which occurred at or about 1400 Cottman Avenue, in Philadelphia County.

9. Both vehicles were pulled over to the shoulder of the road when Plaintiff approached the Rosa vehicle and gathered from her relevant accident information. He then walked toward the Rosenberg vehicle, which was parked behind the Rosa vehicle, in order to gather additional information to provide to Rosa.

10. Plaintiff cited Mr. Rosenberg for failure to have proof of insurance and gave him permission to leave the scene. He walked back to speak to Rosa at her vehicle when Rosenberg suddenly and without warning pulled out onto the roadway and struck the Plaintiff, causing the Plaintiff to sustain serious personal injuries as hereinafter set forth at length.

11. Immediately after the accident Plaintiff apprehended Rosenberg, placed him into the Plaintiff's patrol car, and subsequently charged him with driving under the influence.

12. The accident was caused by the gross wanton reckless, negligent and careless conduct of the tortfeasor, Anthony Rosenberg, in that he:

- a. Was under the influence of medication and/or illegal drugs and operating his vehicle at the time of the accident, in violation of his duty and the laws of the Commonwealth of Pennsylvania;
- b. Failed to yield the right of way to Plaintiff who was lawfully travelling on the highway, in violation of his duty and the laws of the Commonwealth of Pennsylvania;
- c. Operated said vehicle at a high and excessive rate of speed under the circumstances;
- d. Failed to properly and adequately operate his vehicle at the time of the accident;
- e. Failed to have said vehicle under proper and adequate control at the time of the accident;
- f. Was inattentive and disregarded traffic controls, devices and/or conditions;

- g. Operated said vehicle without the regard for the rights, safety and the position of the Plaintiff who was lawfully operating her vehicle and entering the intersection with a green light at the time of the accident;
- h. Operated said vehicle in such a manner that it could not be brought to stop within the ensured clear distance ahead; and
- i. Violated the various ordinances and statutes of the Commonwealth of Pennsylvania pertaining to the operation of motor vehicles, *inter alia*, those set forth in paragraph 10 above.

13. As a direct result of the aforesaid collision that was caused by the tortfeasor's gross wanton recklessness, negligence and carelessness, which is described above, Plaintiff Alan Petrosky sustained multiple serious injuries and traumas, including but not limited L4-5 disc herniation, L2-3, L3-4, L5-S1 disc bulges, thoracic strain and sprain, lumbar strain and sprain, chronic pain syndrome, thoracic nerve damage, as well as various other injuries and exacerbation of pre-existing conditions, which are permanent.

14. As a direct result of the accident and Plaintiff's severe and permanent injuries caused by said accident, Plaintiff has endured pain and suffering as well as cognitive and visual impairments, hearing loss, depression, anxiety, post-traumatic stress disorder, insomnia and he has been required to expend various sums of money for medicine and medical care and treatment, and this will continue into the future.

15. As a result of the accident and Plaintiff's severe injuries caused by said accident, Plaintiff has been caused to lose time from his usual employment, duties and activities, causing a loss of earnings and earning capacity, and this will continue into the future.

16. Plaintiff's loss of earnings and loss of earning capacity is recoverable under 75 Pa.C.S. § 1712 and under his policy of insurance.

17. At all times relevant and material hereto, Plaintiff was covered by the "Full Tort" option on his Allstate insurance policy and was covered by "Underinsured Motorist/With Stacking" benefits. A copy of the declaration pages of Plaintiff's Allstate insurance policy in effect on March 19, 2012 is attached hereto as Exhibit "A."

18. On or about July 2, 2013, GEICO Insurance Company, which insured Mr. Rosenberg's vehicle at the time of the accident, tendered the full liability policy limits in the amount of \$15,000.00. A copy of the letter confirming the tender is attached hereto as Exhibit "B."

19. On July 12, 2013, Allstate provided written consent to settle the third-party claim. A copy of Allstate's consent letter is attached hereto as Exhibit "C."

20. At all times relevant and material hereto, the motor vehicle operated by the tortfeasor, and owned by Anthony Rosenberg, was underinsured.

21. Plaintiff gave timely and reasonable notice to Defendant Allstate of his intentions to proceed with an Underinsured Motorist claim based upon the tender of full policy limits for the vehicle operated by the tortfeasor Anthony Rosenberg, and the fact that Mr. Rosenberg's vehicle was at all relevant times underinsured.

22. There is no mandatory arbitration clause in Defendant Allstate's automobile insurance policy as to underinsured motorist benefits.

23. Under the laws of the Commonwealth of Pennsylvania, Defendant Allstate is required to provide Underinsured Motorist benefits for Plaintiff under his policy No. 928573276 12/1010-08 and Claim No. 0267494952SBK.

24. Defendant Allstate failed to reasonably evaluate Plaintiff's claim and has refused to provide Plaintiff full and fair Underinsured Motorist benefits and has not made any settlement offer for the severe damages Plaintiff sustained as a result of the motor vehicle accident.

25. Plaintiff is insured for \$500,000.00 of Underinsured Motorist benefits and despite his serious and permanent injuries, and multiple demands for his settlement of his injury claim, Defendant Allstate has not made a settlement offer.

WHEREFORE, Plaintiff Alan Petrosky demands judgment against Defendant Allstate Fire & Casualty Insurance Companies in excess of \$50,000, plus interest, costs, reasonable attorneys' fees and such other relief as the Court deems just and proper.

VERLIN LAW OFFICE

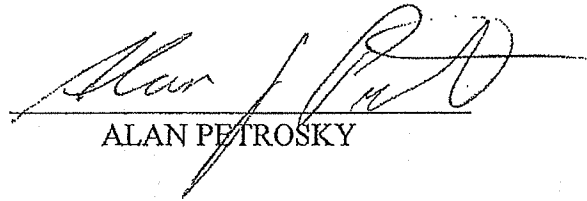
BY: /s/
RICHARD L. STUTMAN, ESQUIRE
Attorneys for Plaintiff

Dated:

VERIFICATION

I, Alan Petrosky, Plaintiff herein, state that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

I understand that the statements made therein are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


ALAN PETROSKY

DATE: 04-23-2014

EXHIBIT "B"

ALAN PETROSKY
MEDICAL SUMMARY
D/A 3/19/12

1. Jeanes Hospital
3/19/12 – ER \$12,475.57
3/21/12 – ER \$ 3,142.25
2. Temple Radiology Associates
3/19/12 – x-ray physician \$ 500.00
3. Burholme Emerg Care Specialist
3/19/12 – ER physician \$ 323.00
4. Comp Services, Inc. – Jeanes Hospital
3/19/12 – 4/16/13 – work comp physician \$
5. Bustleton Radiology
3/27/12 – MRI lumbar spine \$ 1,900.00
9/18/12 – CT Thoracic Spine \$ 2,000.00
6. Katz-Bennett-Levin Neurology Associates, P.C.
4/2/13 – neurologic consult \$ 475.00
7. Holmesburg Family Medicine
4/5/12 – 11/23/12 – doctor's visits \$ 1,426.00
8. Daniel S. Rosenberg, M.D.
5/7/12 – office visit & nerve testing \$ 556.53
9. NovaCare Rehabilitation
5/7/12 – 12/21/12 – physical therapy \$12,549.00
10. Foundation for Pain Management
5/22/12 – 11/8/12 – pain management consult \$ 2,265.00

- | | |
|--|------------------|
| 11. Aria Health Torresdale
6/6/12 – ER | \$ 6,718.26 |
| 12. Aria Health Physician Services
6/6/12 – ER Physician | \$ 265.00 |
| 13. Medical Imaging Associates
9/5/12 – MRI thoracic spine | \$ 1,800.00 |
| 14. Trevoze Speciality Care Surgical Centers
10/23/12 – nerve block | \$ 6,600.00 |
| 15. Paul J. Sedacca, M.D.
12/13/12 – 7/1/13 office visits | \$ <u>860.00</u> |

TOTAL MEDICAL:	\$53,855.61
-----------------------	--------------------

EXHIBIT "C"

Verlin Law Offices

Mark A. Verlin
Richard L. Stutman

150 Monument Road, Suite 404
Bala Cynwyd, PA 19004
(610) 668-0255
(610) 668-0258 Fax
1-800-501-4434 Toll Free

March 10, 2014

Allstate Insurance
6345 Flank Drive, Suite 1000
Harrisburg, PA 17112
Attn: Benjamin Kohler

RE: My Client/Your Insured: Alan Petrosky
Claim #: 0267494952SBK
Date of Accident: 3/19/12

Dear Mr. Kohler:

As you are aware this office represents Officer Alan Petrosky for personal injuries sustained in the above-captioned matter. At the time of the accident, Officer Petrosky was unintentionally run over by a motor vehicle while he was investigating a traffic accident causing his injuries. Although Officer Petrosky was clearly acting in the course and scope of his employment at the time of the accident, he was also not in his motor vehicle, but was a pedestrian standing next to a motor vehicle talking to its driver when he was run over. I have a copy of Officer Petrosky's Allstate policy and I can find no underinsured motorist exclusions which would apply to this set of facts.

Therefore, enclosed is a copy of Officer Petrosky's medical summary and all applicable medical records, bills, reports, and documents. As you are aware, we have settled his third party claim for policy limits of \$15,000. I am demanding \$150,000 in settlement of his underinsured motorist claim. Would you kindly respond to this demand at your earliest convenience.

Very truly yours,


MARK A. VERLIN

MAV/dc
Encl.

Received
MAR 13 2014
Harrisburg Mallincom

EXHIBIT “D”

John Brown

From: John Brown
Sent: Wednesday, June 25, 2014 9:43 AM
To: 'richard'
Subject: RE: Petrosky v. Allstate - Allstate Claim No.: 0267494952 -- Our File No.: 7600 - 2 - 11637
Attachments: Stipulation to Cap Damages.pdf

Importance: High

Rich –

I understand your position that you cannot sign the attached stipulation that I have executed to cap damages at \$75,000 in this matter for the reasons stated below in your email.

By reply to this email please confirm for me a stated demand for settlement of the claim against Allstate in this matter that I can communicate both to my principal and the court.

Since you have made it clear in our telephone conversation yesterday that plaintiff's claim exceeds the \$75,000 threshold for the federal court to assert subject matter jurisdiction over the disputed UIM claim, Allstate intends to remove the case to USDCEDPa.

I look forward to working with you on this case and appreciate your courtesy and cooperation.

Sincerely,
John

John R. Brown, Esq.
RYAN, BROWN,
BERGER & GIBBONS, P.C.
1600 Market Street, 14th Floor
Philadelphia, PA 19103-7240
(215) 564-3800
Fax: (215) 564-1301
brown@ryanbrown.com
www.ryanbrown.com

From: richard [<mailto:Richard@verlinlaw.com>]
Sent: Tuesday, June 24, 2014 9:42 AM
To: John Brown
Cc: richard
Subject: Petrosky v. Allstate

Good talking to you yesterday. Just reviewed my file. Work Comp lien alone is almost \$70,000, so I can't sign a stip to max damages of \$75,000.

It may be Fed Arb level, but we can cross that bridge when we come to it.

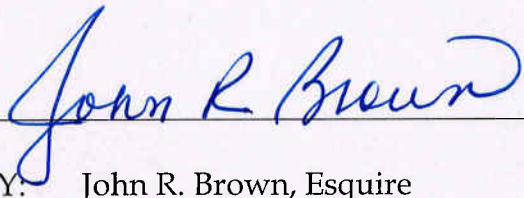
Rich Stutman

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2014 a true and correct copy of the Notice of Removal on behalf of Defendant has been served upon the following via regular mail:

Richard L. Stutman, Esquire
Verlin Law Offices
150 Monument Road, Suite 404
Bala Cynwyd, PA 19004

RYAN BROWN BERGER & GIBBONS, P.C.

A handwritten signature in blue ink, reading "John R. Brown", is written over a horizontal line.

BY: John R. Brown, Esquire

Date: 6/26/14